

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
PATENT EXAMINING OPERATION

Applicants: Günter FUHR, et al.

Application Serial No.: 10/532,017

Group Art Unit: 3744

Filed: April 20, 2005

Examiner: Mohammad M. Ali

Attorney Docket No.: B1180/20035

Confirmation No.: 5994

For: LOW-TEMPERATURE STORAGE OF SUSPENSION SAMPLES IN SUSPENDED  
SAMPLE CHAMBERS

**REQUEST FOR RECONSIDERATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INTRODUCTORY COMMENTS**

In response to the Final Office Action dated October 5, 2009, the time for responding thereto being extended one month in accordance with attached Petition for Extension of Time submitted herewith, Applicants respectfully request reconsideration of this application in view of the following remarks. Claims 1-26 are pending.

**ELECTION/RESTRICTION**

The Examiner withdraws Claims 21-26 asserting that the claims are directed to an invention that is independent or distinct from the invention originally claimed. In particular, the Examiner asserts that Claims 21-23 claim a data memory chip which specifically differs from the original claim, and belongs to class 34, which involves a different search strategy. The Examiner further asserts that Claims 24-26 claim a specific feature of data bits which also belongs to class 340 and needs special addition searching. These assertions are respectfully traversed for at least the reasons set forth below.

Applicants submit that adding dependent claims further clarifying structures recited in the related independent claim is not cause for restriction, even if the specified structure involves a different or additional search strategy. In fact, the restricted claims are not independent or distinct from the original claims. Claims 21-23 respectively depend from independent Claims 1, 12 and 20, and clarify that the at least one data storage of the originally claimed at least one data storage device recited in the independent claim is at least one data memory chip. Claims 24-26 respectively depend from independent Claims 1, 12 and 20, and clarify that the plurality of data stored in the originally claimed at least one data storage device previously recited in the independent claims includes a plurality of data bits. In other words, the dependent Claims 21-26 do not broaden their independent claims or add subject matter that would not be included within the scope of the independent claims. The Claims 21-26 simply introduce a clarification of structure recited in the independent claims.

Applicants submit that claims often recite elements belonging to different classes and subclasses, however, their inclusion in a claim alone does not merit restriction. Here, the dependent Claims 21-26 are clearly related to their independent claims and are thus not independent. Moreover, the dependent Claims 21-26 clearly overlap in scope with their independent claims, as they further limit features recited in the original or already examined claims, and thus are not distinct from their independent claims. Accordingly, Claims 21-26 are not independent or distinct from the invention originally claimed, and under MPEP 803, restriction is not proper. Withdrawal of the restriction is respectfully requested.